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United States Courts
Southern District of Texas
FILED

JAN 14 2019

5 Attorneys for Plaintiff
JAMES ANDRÉ JEFFERSON

David J. Bradley, Clerk of Court

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8 **UNITED STATES DISTRICT COURT**

9 **FOR THE SOUTHERN DISTIRCT OF TEXAS**

10

11 **JAMES ANDRÉ JEFFERSON, an individual,**

12

Plaintiff,

13

vs.

14

15 **EMPIRE TRUCK LINES, INC. a Texas corporation; JULIAN SUAREZ PALACIOS, an individual; JOEL CAMPOS, an individual,**

16

Defendants.

17

18

PLAINTIFF ALLEGES, AS FOLLOWS:

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20

JURISDICTION AND VENUE

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1. Subject matter jurisdiction is proper under 28 U.S.C. § 1332(a)(1) because, as alleged in the complaint on file herein, the Plaintiff and Defendants are citizens of different states. The amount in controversy, without interest and costs, exceeds the sum or value specified by 28 U.S.C. § 1332.

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2. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1331 because the corporate defendant's principal place of business is within this District and

26

27

28

CASE NO.

19 CV 0149

COMPLAINT FOR DAMAGES

1. NEGLIGENCE
2. NEGLIGENCE PER SE

1 because the Defendants systematically and continuously conducted business within this
2 district.

4 3. This court has supplemental jurisdiction over the state law claims pursuant to
5 28 U.S.C. § 1337.

7 4. Defendants each are domiciled in Texas, authorized to do business in Texas,
8 have sufficient minimum contacts with Texas, and/or otherwise intentionally avail
9 themselves of the markets in Texas through the promotion, marketing and sale in Texas of
10 trucking services, to render the exercise of jurisdiction by this Court permissible under
11 traditional notions of fair play and substantial justice.
12

14 5. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(a)
15 because the Defendants' principal place of business is within this district.

THE PARTIES

18 6. Plaintiff JAMES ANDRÉ JEFFERSON is a resident of the City of Palmdale,
19
20 County of Los Angeles, State of California. He is a long-hand truck driver.

21 7. Plaintiff is informed and believes and on that basis alleges that Defendant
22
23 EMPIRE TRUCK LINES, INC., is a Texas corporation with its principal place of business
24 in Houston, Texas. Plaintiff is informed and believes and thereon alleges, that at all times
25 herein mentioned the individual defendants were employees or principals of the corporate
26 defendant and are residents in the city of El Paso, State of Texas or doing business in the
27
28 city of Houston, State of Texas.

1 **FACTS COMMON TO CALL CLAIMS**
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4 8. Each and all of the acts, events and injuries alleged hereinafter took place on
5 Interstate Highway 10 near 26000 Ralph Fair Rd., in the city of Houston, State of Texas.
6
7

8 9. Plaintiff is informed and believes and thereon alleges, that at all times herein
9 mentioned the Defendants, and each of them, were the owners and operators of a truck-
10 trailer combination referred to in this Complaint.
11

12 10. Plaintiff is informed and believes and thereon alleges, that at all times herein
13 mentioned the Defendants, and each of them, were the agents and employees of each of the
14 remaining Defendants and were at all times acting within the purpose and scope of said
15 agency and employment.

16 11. At all times mentioned herein, Palacios was acting within the course and
17 scope of his employment with Defendant Empire Truck Lines, Inc. (EMPIRE). As a
18 result, Defendant EMPIRE is vicariously liable for Palacios' negligent acts.
19

20 12. At all times mentioned herein, Defendant Joel Campos (CAMPOS) was the
21 owner of the subject truck-trailer. Defendant Campos provided his permission for
22 defendant PALOCIOS to operate the subject truck-trailer arising out of and occurring in
23 the course of his employment with defendant EMPIRE. As a result, Defendant Campos
24 and defendant EMPIRE are liable for Defendant PALOCIOS' negligent acts.
25

26 13. Plaintiff is informed and believes and thereon alleges, that at all times herein
27 mentioned Defendants, Julian Suarez Palacios (PALACIOS) was driving the truck-trailer
28

1 with the consent, permission and knowledge of each of the remaining Defendants.

CLAIM 1 FOR NEGLIGENCE

14. Plaintiff refers to and incorporates each allegation of paragraphs 1-13, inclusive as if set forth in full.

8 15. On or about January 25, 2017, the Defendants, and each of them, so
9 negligently entrusted, managed, inspected, maintained, drove, operated, manufactured,
10 designed, the subject truck-trailer, so that when it was traveling eastbound on Interstate
11 Highway 10W near 26000 Ralph Fair Rd., in the City of Houston, State of Texas, the
12 brakes on the tractor-trailer combination failed when PALACIOS applied the brakes
13 causing his truck-trailer to violently crash into the truck and trailer driven by Plaintiff.
14

15 16. Plaintiff is informed and believes that the subject truck-trailer had
16
17 mechanical brake problems and was unsafe to be traveling at the time of the subject
17
18 incident. Defendants should have but failed to inspect or maintain the brakes of the subject
18
19 truck-trailer prior to the collision to ensure safe and adequate brake capacity for the subject
19
20 truck-trailer. Defendants were negligent in failing to maintain the safety of the subject
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21 truck-trailer. Plaintiff further alleges defendant Palacios failed to inspect or adjust the
21
22 condition of the brakes before and while driving on Interstate Highway 10W the day of the
22
23 subject collision.

26 17. As the direct and proximate result of the negligence of the above-named
27 Defendants, and each of them, Plaintiff was hurt and injured in his health, strength and

1 activity, sustaining injuries to body and shock and injuries to the nervous system and
2 person, all of which injuries have caused and continue to cause Plaintiff great mental,
3 physical and nervous pain and suffering, all to the Plaintiff's general damage in an amount
4 in excess of \$90,000 and according to proof.
5

6 18. As a further direct and proximate result of the negligence of the Defendants,
7 and each of them, Plaintiff was required to an did employ physicians and surgeons to
8 examine, treat and care for Plaintiff, and Plaintiff did incur medical and incidental
9 expenses thereby. The exact amount of such expenses is presently unknown to Plaintiff
10 and Plaintiff will seek leave of Court to amend this Complaint to set forth the exact amount
11 thereof when the same has been ascertained. Plaintiff is informed and believes and thereon
12 alleges, that as the direct and proximate result of the negligence of the Defendants, and
13 each of them, will, for a period of time in the future, be required to employ physicians and
14 surgeons to examine, treat and care for Plaintiff, in that Plaintiff will incur additional
15 medical and incidental expenses thereby. The exact amount of such expenses is presently
16 unknown to Plaintiff who will seek leave of Court to amend this Complaint to set forth the
17 exact amount thereof when the same has been ascertained.
18

19 19. As a further, direct and proximate result of the negligence of the above-
20 named Defendants, and each of them, Plaintiff was unable to attend to his usual
21 employment duties and has suffered a loss of earnings thereby. Plaintiff is informed and
22 believes and thereon alleges, that he will be unable to attend to his usual occupation for a
23 period of time in the future and will suffer a further loss of earnings thereby. Plaintiff will
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25
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1 seek leave of Court to amend this Complaint to set forth the exact amount of all such lost
2 earnings when the same have been ascertained.
3

4 **CLAIM 2 FOR NEGLIGENCE PER SE**
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6 20. Plaintiff incorporates by reference all paragraphs of this complaint, and
7 repeats all allegations of said paragraphs 1-19, as though set forth here in full.
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9 21. The dangerous driving performed by Defendant Palacios was in violation of
10 49 CFR §396.3, et seq.
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12 22. The type of occurrence giving rise to Plaintiff's injuries alleged herein is
13 within the class of occurrences which 49 CFR §396.3, et seq. was designed to prevent.
14

15 23. Plaintiff was within the class of persons 49 CFR §396.3, et seq. was designed
16 to protect.
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18 24. Defendants' violation of 49 CFR §396.3, et seq. was a direct and proximate
19 cause of the injuries sustained by Plaintiff.
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21 25. As a direct and proximate result of this violation of said CFR's by
22 Defendants, Plaintiff suffered serious bodily injury requiring him to receive immediate and
23 ongoing medical treatment, as herein above alleged.
24

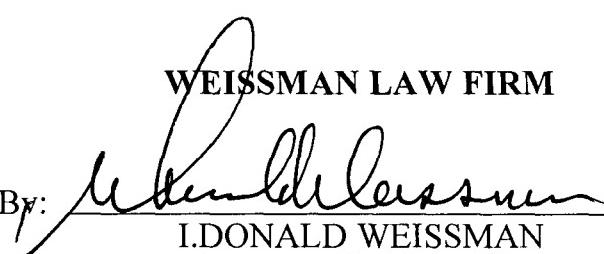
25 WHEREFORE, Plaintiff prays for Judgment against the Defendants, and each of
26 them, as follows:
27

28 1. General damages in an amount according to proof;

- 1 2. Medical and incidental expenses, according to proof;
2
3 3. Loss of earnings and damage to earning capacity, according to proof;
4
5 4. Costs of suit incurred herein; and
6
5. For other and further relief as the Court deems just and proper.

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9 DATED: January 4, 2019

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10 By: 

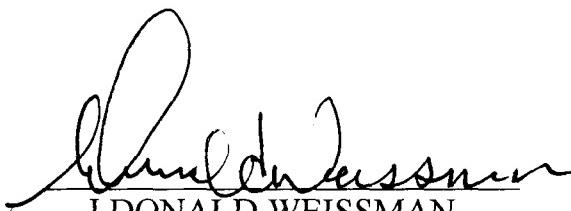
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12 I.DONALD WEISSMAN
13 Attorneys for Plaintiff,
14 JAMES ANDRÉ JEFFERSON

15 **DEMAND FOR JURY TRIAL**

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17 Plaintiff hereby demands a trial by jury in the above-entitled action.

18
19 DATED: January 4, 2019

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23 I.DONALD WEISSMAN
24 Attorney for Plaintiffs,
25 JAMES ANDRÉ JEFFERSON